[Pamphlet] 5-

3200

CANADIAN COPYRIGHT.

BY

A CANADIAN AUTHOR.

At a meeting of the newly-formed Canadian Society of Authors, held at Toronto on the 13th of March last, the following proposal of the Provisional Committee was adopted and endorsed, with only one dissentient voice, by the dozen or so of members (the majority of them being members of the Committee) present:—

> "It is the opinion of your Committee, therefore, that Lord Herschell's Bill would conduce largely to the benefit of Canadian authors and publishers, and the public generally, if amended by adding a clause to the following effect, which might appear as a sub-section to Section 35 of the Bill:—
>
> > "(*a*) Provided also that notwithstanding anything in this Act it shall be lawful for the Legislature in any British Colony or possession to pass an Act or Ordinance providing that if and when there be registered at the office for the registry of copyrights in literary and artistic works kept under the authority of the Government of such British Colony or possession a reprint of any literary or artistic work first published in any other part of Her Majesty's dominions or simultaneously published in some other part of Her Majesty's dominions and in the said British Colony or possession, with a certificate that the owner of the copyright under this Act in such work sanctions such reprint, then

F5012
1897
A372

and thereafter no copy of the said work so copyrighted under this Act shall be imported into such British Colony or possession save and except copies of such work specially imported for the *bonâ fide* use of Public Free Libraries and University and College Libraries and Law Libraries of any duly organised Law Association or Society for the use of its members, such copies so imported, however, not to exceed two for each such Libraries."

Upon this proposal I venture to offer the following brief comments:—

I. The prime function of copyright is protection of intellectual labour. This proposal is one more attempt to introduce into copyright a factor for which the only precedent is the "manufacturing clause" of the United States, viz., the interests of manufacturers as distinct from mere protection of literary property.

II. It is virtually an infraction of the principle that British copyright extends throughout the British Empire; for, if every Colony followed this example the original holder of a copyright would be obliged to protect his rights in every Colony. Statistics of sales, receipts, accounts, royalties, advertisements, would be extremely difficult to collect.

III. It complicates contracts between author and publisher, since each will have to take into account all the markets from which English editions are excluded.

IV. It militates against the British publisher, since, almost without exception, the Canadian rights will be bought, not from the British publisher, but from the United States one, who is, presumably, one of "the owners of the copyright."

(This, I believe, was the case with Mr. Steeven's "With Kitchener to Khartum," the Canadian rights being bought, not from Messrs. Blackwood, but from Messrs. Dodd, Mead and Co., not a little, if I am cor-

rectly informed, to the justifiable chagrin of Messrs. Blackwood.)

(Only the rights of books that sell well will be bought; and these are always reprinted in the United States. The Canadian publisher will simply buy the plates from the American publisher. The Canadian publisher will take no risks; he leaves those to the British publisher.)

V. It necessitates either reprinting or resetting—each of which is a waste of labour solely in the interests of Canadian printers, paper-makers, and binders.

VI. It militates against the interests of the Canadian bookseller, who is prohibited from importing.

VII. It offers no advantage whatsoever either to (i) the author, or (ii) the reader. Indeed it hampers both; for, (i) the English author will have little or no control over sales, receipts, royalties, advertisements, etc.; and (ii) it limits the reader to a single Colonial edition.

VIII. It is merely a facility statutorily bestowed upon the Canadian producer to obtain some of the manual labour belonging by rights to the British producer who first undertook the risk of purchasing the manuscript.

IX. Why should not the Canadian publisher offer to purchase manuscripts in the open market of all the countries in the Berne Convention? By the Imperial Copyright Act of 1842 (5 and 6 Vict. c. 45) and the International Copyright Act of 1886 (49 and 50 Vict. c. 33) he is at liberty now to do so. Instead of this, he seeks by legislation to be put on a par with more enterprising or more powerful publishers.

X. Why should the tastes of a Canadian reader who prefers English paper, binding, type, and spelling be statutorily restricted solely in the interests of a few Canadian publishers? Is not this "class legislation" of the narrowest kind?

XI. No one is to be benefited but the Canadian publisher. Why should the Canadian author battle so strenuously for his benefit?

> (The argument adduced is that by enriching the Canadian publisher profit will accrue to the Canadian author. But surely publishers will buy only saleable books. And those who write saleable books could surely find enterprising publishers without first helping to enrich unenterprising ones.)

XII. The principle of the proposal is a purely protective one, and one not in consonance with the liberal view of copyright taken by the co-signatories of the Berne Convention.

XIII. One very possible result of this proposal will be that those United States publishers who hold British copyrights will, through their Canadian agents, register reprints from their own plates.

XIV. This proposal will, in all probability, open the door for a repetition of the wretched wrangle not only upon the question of copyright, but upon that of the respective constitutional rights of Mother Country and Colony, which followed upon the passing of Sir John Thompson's Act of 1889 (an Act to amend "The Copyright Act," 52 Vict. c. 29, Dominion of Canada), questions which, I submit, might be allowed to sleep till something more important than the pecuniary profit of a few Canadian publishers arises to necessitate their solution.

XV. It is not inconceivable that to reawaken that wrangle, and to force that issue, is the unavowed object of some of the promoters of this proposal.

T. Arnold Haultain.

Toronto,
March 15*th*, 1899.

PRINTED BY J. S. VIRTUE AND CO., LIMITED, CITY ROAD, LONDON.